

MINUTE ORDER

CASE NUMBER: CIVIL NO. 21-00243 LEK-RT

CASE NAME: Hawaiian Kingdom vs. Joseph Robinette Biden, Jr. Et al.,

JUDGE: Leslie E. Kobayashi

DATE: 12/03/2021

COURT ACTION: EO: COURT ORDER: CONSTRUING FILINGS AS OBJECTIONS AND MOTIONS TO DISQUALIFY THE MAGISTRATE JUDGE; AND DENYING THE OBJECTIONS AND MOTIONS

On August 25, 2021, prospective intervenor Alfred Spinney Keliiahuluhulu (“Spinney”) filed a Motion to Intervene as of Right (“Spinney Motion to Intervene”). [Dkt. no. 63.] On September 10, 2021, prospective intervenor Newton Kawelo Piohia Kekahio Kealohapauole (“Kekahio”) filed a Motion to Intervene as of Right (“Kekahio Motion to Intervene”). [Dkt. no. 71.] On September 30, 2021, the magistrate judge issued an order denying the Spinney Motion to Intervene (“9/30/21 Order”). [Dkt. no. 89.] On October 1, 2021, the magistrate judge issued an order denying the Kekahio Motion to Intervene (“10/1/21 Order”). [Dkt. no. 91.]

On November 1, 2021, Spinney filed a “Motion to Investigate the Entering Order Filed 9/30/2021” (“Spinney Motion to Investigate”). [Dkt. no. 144.] On November 26, 2021, Kekahio filed a motion to join in the Spinney Motion to Investigate and to “Investigate the Entering Order Filed 10/1/2021” (“Kekahio Joinder”). [Dkt. no. 171.]

Because Spinney and Kekahio are proceeding *pro se*, their filings must be liberally construed. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (“A document filed *pro se* is to be liberally construed[.]” (citation and internal quotation marks omitted)). The Court CONSTRUES the Spinney Motion to Investigate as: (1) an objection to the 9/30/21 Order; and (2) a motion to disqualify the magistrate judge pursuant to 28 U.S.C. § 455. To the extent that the Motion to Investigate objects to the 9/30/21 Order, it is untimely. See Local Rule LR74.1(a) (stating “a party may object to a magistrate judge’s non-dispositive order . . . within fourteen (14) days after being served”).

To the extent that the Spinney Motion to Investigate seeks to disqualify the magistrate judge, it is without merit because “a reasonable person with knowledge of all the facts would [not] conclude that the judge’s impartiality might reasonably be questioned.” See *United States v. Hernandez*, 109 F.3d 1450, 1453 (9th Cir. 1997) (per curiam) (citation and quotation marks omitted). Thus, the Spinney Motion to Investigate is DENIED.

As to the Kekahio Joinder, the Court CONSTRUES it as: (1) an objection to the 10/1/21 Order; and (2) a motion to disqualify the magistrate judge pursuant to 28 U.S.C. § 455. The Kekahio Joinder fails for the same reasons as the Spinney Motion to Investigate. Accordingly, the Kekahio Joinder is DENIED.

IT IS SO ORDERED.

Submitted by: Agalelei Elkington, Courtroom Manager